

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION

5:23-CR-00165-M-1

UNITED STATES OF AMERICA,

Plaintiff,

v.

KOJO OWUSU DARTEY,

Defendant.

ORDER

This matter comes before the court on Defendant's "Motion to Replevy," [DE 238], which the court treats as a motion for return of seized property pursuant to Rule 41(g) of the Federal Rules of Criminal Procedure. "The Fourth Circuit has ruled that" a Rule 41(g) motion functions as "a separate 'civil action,'" in that it is "subject to applicable filing fees" of the Prisoner Litigation Reform Act. *United States v. McRee*, No. 5:20-CR-00142, 2023 WL 7132946, at \*1 (E.D.N.C. Oct. 30, 2023) (quoting *United States v. Jones*, 215 F.3d 467, 469 (4th Cir. 2000)). Accordingly, the court denies Defendant's motion without prejudice to Defendant refiling the motion as "a civil action," *United States v. Garcia*, 65 F.3d 17, 20 (4th Cir. 1995), and complying with the fee provisions of 28 U.S.C. § 1915.

SO ORDERED this 19<sup>th</sup> day of March, 2025.



RICHARD E. MYERS II  
CHIEF UNITED STATES DISTRICT JUDGE